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Struggle between Author and Editor over
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SYMPOSIUM EDITOR

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- EVIDENCE OF PROPENSITY AND PROBABILITY IN
SEX OFFENSE CASES AND OTHER CASES *David J. Karp* 15

This address (which was presented to the Evidence Section of the Association of American Law Schools on December 9, 1993) discusses the admission of evidence of uncharged crimes against the defendant, with particular reference to the use of such evidence in sex offense cases. It argues specifically for a legislative reform establishing general rules of admissibility in sexual assault and child molestation cases for evidence that the defendant has committed offenses of the same type on other occasions. The address sets out the policy and precedential support for such a reform, and examines the issue in a historical prospective.

- SOME COMMENTS ABOUT MR. DAVID KARP'S
REMARKS ON PROPENSITY EVIDENCE *Edward Imwinkelried* 37

In his comments, Professor Imwinkelried argues that the case has not yet been made for the abolition of the character evidence prohibition. There is no longer solid judicial support for recognizing an exception to the prohibition in sex offense prosecutions; some recent cases have rejected the exception. Moreover, the proposed legislation sweeps far beyond the empirical research supporting the interactionist theory; while that theory allows character inferences to be drawn from a large number of very similar instances of conduct, the legislation would permit such inferences to be drawn from a solitary, similar act.

- RESPONSE TO
PROFESSOR IMWINKELRIED'S COMMENTS *David J. Karp* 49

This address responds to comments by Professor Imwinkelried on the author's *Evidence of Propensity and Probability in Sex Offense Cases and Other Cases*. It argues that general rules of admissibility for similar crimes evidence in sexual assault and child molestation cases constitute a moderate reform measure that has substantial support in both traditional and contemporary precedent. The address further discusses the rules applied in foreign jurisdictions, the import of past and present caselaw in the United States, the import of empirical study of character, and the need to take

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**PROPENSITY EVIDENCE IN
CONTINENTAL LEGAL SYSTEMS**

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This paper seeks to establish the prevailing attitude of continental European courts toward character and collateral misconduct evidence. To the extent that rules on this subject can be identified on the continent at all, they are characterized by a narrow focus on the probative potential of this type of information. The concern that this information might be attributed too much weight by the factfinders, or unfairly predispose them toward a particular litigant, does not lead continental courts to exercise the exclusionary option. As a result, continental European factfinders are exposed to much more propensity evidence than their Anglo-American counterparts. How this circumstance affects the accuracy of outcomes in continental and common law trials is difficult to ascertain, however, because of the widely diverging institutional and procedural contexts.

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This article introduces the other articles in the Symposium by assessing the view of authorial character implicit in each of them, and offers its own view of the character traits necessary for virtuous and productive management of the author-editor relationship.

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The author suggests that problems with student editing stem from the professor's own adherence to the standard form of law review articles and that self-expression offers a happy solution.

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Professor Epstein compares faculty run journals with student run law reviews, and concludes that the former have their distinctive niche. Faculty run journals have greater levels of expertise and continuity and thus are better able to deal with theoretical issues, especially those with interdisciplinary issues.

**STUDENT EDITING: USING EDUCATION
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Professor Lindgren argues that law schools have failed as educators of their student editors. He suggests greater faculty oversight and training—and more student deference to the prose styles of authors.

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Authors sometimes may find student editing trying, but Professor Maggs argues that they need not surrender unconditionally to students or look for alternatives to

student-run publications. Instead, they merely need to discover ways to reduce the frustrations in resolving editorial disputes.

THE DEATH OF AN AUTHOR, BY HIMSELF *Mark Tushnet* 111

Constitutional scholarship today is generally quite skeptical about originalist approaches to constitutional interpretation. Turning that same skepticism toward an article he wrote, Professor Tushnet suggests that we should be less concerned about editorial intervention in the production of scholarly articles and more concerned about the social conditions under which they are read and interpreted.

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LAW JOURNALS: A VIEW FROM THE
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In this paper, the student editors of the *Chicago-Kent Law Review* consider, from the student editor's perspective, the advantages and disadvantages of an all-symposium format. The paper also responds to some of the comments and criticisms set forth by other authors in the Symposium.

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**WORKTIME IN CONTEMPORARY CONTEXT:
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STANDARDS ACT** *Juliet B. Schor* 157

This article documents the substantial rise in working hours in the United States since 1969 and discusses some of the social effects of this trend. The author briefly discusses the history and inadequacy of the Fair Labor Standards Act, and provides a rationale for major changes in the scope and intent of the law. Specific suggestions for amending the FLSA also are discussed.

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In both her book, *The Overworked American*, and her paper, *Worktime in Contemporary Context: Amending the Fair Labor Standards Act*, Juliet Schor presents proposals for reforming the Fair Labor Standards Act as a solution to the problems of rising work hours in the United States. Because Canada has many of the statutory entitlements that Schor advocates, Professor Langille, a Canadian labor lawyer, offers an analysis of Schor's proposals for workplace reform by comparing Canadian labor law and its effect in Canada to the American system.

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In *Buckley v. Illinois Judicial Inquiry Board*, the Seventh Circuit Court of Appeals became the highest-ranking federal court to hold that restrictions on the speech of election candidates for judicial office based on the *Model Code of Judicial Conduct* are unconstitutionally overbroad. This Note examines the 1972 and 1990 versions of the *Model Code*—both of which were cast in doubt by *Buckley*—in light of First Amendment principles of compelling state interest and overbreadth. The author concludes that most state restrictions are not sufficiently narrow in scope to pass constitutional scrutiny, but argues that this conclusion need not inevitably lead the states to reject the popular election of judges.

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MILITARY JUSTICE AND THE SUPREME COURT'S OUTDATED STANDARD OF DEFERENCE: *WEISS V. UNITED STATES*

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This Note discusses the Supreme Court's traditional recognition of the “separate society” doctrine and the Court's consequent application of a standard of review highly deferential to Congress with respect to military issues. After tracing the historical development of military justice, this Note evaluates the Court's most recent application of the “separate society” doctrine in *Weiss v. United States* and challenges the continuing validity of the Court's hands-off approach to issues involving the modern military establishment.